

05/16/2013

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**FUERST ITTLEMAN
DAVID & JOSEPH PL**

Joseph A. DiRuzzo, III, Esq., CPA
305.350.5690
jdiruzzo@fuerstlaw.com

May 16, 2013

Via Electronic Filing Only

Veronica J. Handy, Esq.
Clerk of the Supreme Court of the Virgin Islands
P.O. Box 590
St. Thomas, VI 00804

Re: Yusuf, et al. v. Hamed; S. Ct. Civ. No. 2013-0040

Dear Attorney Handy,

This letter brief is in response to the Court's Order dated May 15, 2013, requiring the Appellants to address and discuss whether the Supreme Court of the Virgin Islands has appellate jurisdiction over the instant case. Attached hereto as Exhibit A is the April 15, 2013 Order entering a preliminary injunction against the Appellants and attached hereto as Exhibit B is the April 25, 2013, memorandum opinion detailing the Superior Court's reasoning.

As the Superior Court's memorandum opinion explicitly states, the order was entered pursuant to Fed. R. Civ. P. 65(a), see Exhibit B at p. 1. Unlike *Crucians in Focus, Inc. v. VI 4D, LLLP*, 57 V.I. 529, 535 (V.I. 2012) (where the Supreme Court of the Virgin Islands addressed a TRO entered pursuant to Fed. R. Civ. P. 65(b)(2)) here the Superior Court explicitly entered its order pursuant to Fed. R. Civ. P. 65(a). Indeed, the Supreme Court of the Virgin Islands has stated that it has

jurisdiction over [an appellant's] notice of appeal from the preliminary injunction pursuant to V.I.C. § 33(b)(1) (Supp. 2008), which grants this Court jurisdiction over appeals from [i]nterlocutory orders of the Superior Court ... granting, continuing, modifying, or refusing or dissolving injunctions, or refusing to dissolve or modify injunctions.

In re Najawicz, 52 V.I. 311, 324-325 (V.I. 2009) (internal citations and quotations omitted). Accordingly, because the Superior Court issued an injunction pursuant to Fed. R. Civ. P. 65(a) the Supreme Court of the Virgin Islands has the statutory authority to entertain the instant case.

Kind Regards,

/s/ Joseph A. DiRuzzo, III

Digitally signed by /s/ Joseph A. DiRuzzo, III
DN: cn=/s/ Joseph A. DiRuzzo, III, o=Fuerst Ittleman, PL, ou,
email=jdiruzzo@fuerstlaw.com, c=US
Date: 2013.05.16 18:56:48 -0400

Joseph A. DiRuzzo, III

cc: counsel of record via electronic notification

JOEL H. HOLT, ESQ. P.C.

2132 Company Street, Suite 2
Christiansted, St. Croix
U.S. Virgin Islands 00820

Tele. (340) 773-8709
Fax (340) 773-8677
E-mail: holti@aol.com

May 17, 2013

Veronica J. Handy, Esq.
Clerk of the Supreme Court of the Virgin Islands
P.O. Box 590
St. Thomas, VI 00804

Re: Yusuf, et al. v. Hamed, S.Ct. Civ. NO. 2013-40

Dear Attorney Handy:

In response to the Appellants' letter dated May 16th, the Appellee agrees that the order entered below was a preliminary injunction pursuant to Rule 65(a) and not a TRO pursuant to Rule 65(b).

However, as noted on the docket sheet (excerpt attached), the Appellants did file several motions for reconsideration on May 9, 2013, just prior to filing his appeal. Thus, the order appealed from does not appear to be a final order as set forth in V.I. Sup. Ct. R. 5(a)(4).

Respectfully submitted,

/s/ Joel H. Holt

cc: Counsel of record via electronic notification

05/16/13 Superior Court of the Virgin Islands
Civil Division
CIVIL ACTION DOCKET

PAGE: 1

MOHAMMAD HAMED BY HIS AUT CASE NO: SX-12-CV-0000370 DAMG
VS. FILING DATE: 09/17/12
JUDGE: Hon. Douglas A. Brady
YUSUF, FATHI ET AL

PARTY TYPE	LITIGANT	PARTY NAME
ATTORNEY FOR DEFENDA		DEWOOD, NIZAR A.
ATTORNEY FOR PLAINTI	P001	HARTMANN, CARL ESQ.
ATTORNEY FOR ANY OTH	P001	HOLT, JOEL H
PLAINTIFF	P001	MOHAMMAD HAMED BY HIS AUTH. AGENT WALEED
DEFENDANT	D001	YUSUF, FATHI
ATTORNEY FOR DEFENDA	D002	DIRUZZO, III, JOSEPH A. ESQ.
DEFENDANT	D002	UNITED CORPORATION

DATE	FEE/AMOUNT
05/16/13	CERTIFIED DOCKET FORWARDED TO THE SUPREME COURT OF THE VIRGIN ISLANDS
05/16/13	NOTICE OF APPEAL COVER LETTER, INFORMATION SHEET, MEMORANDUM OF OPINION, ORDERS AND CERTIFIED DOCKET SHEET FORWARDED TOT HE SUPREME COURT OF THE VIRGIN ISLANDS PREPARED BY ROXANNE SERRANO, COURT CLERK SUPERVISOR
05/13/13	DOCKETING LETTER RECEIVED SUBMITTED BY SHANTEL ARRINDELL, DEPUTY CLERK I
05/13/13	NOTICE OF APPEAL RECEIVED SUBMITTED BY JOSEPH A. DIRUZZO, III, ESQ.
05/09/13	MOTION FOR EXPEDITED RESOLUTION OF PRIOR MOTION TO INTERVENE AND A STAY OF THE COURT'S ORDER DATED APRIL 25, 2013 SUBMITTED BY K. GLENDA CAMERON, ESQ.
05/09/13	FILE FORWARDED TO JUDGE BRADY'S CHAMBER
05/09/13	DEFENDANT'S EMERGENCY MOTION FOR RECONSIDERATION OF PRELIMINARY INJUNCTION ORDER TO STAY OF SAME PENDING POSTING OF ADEQUATE BOND SUBMITTED BY NIZAR DEWOOD, ESQ.
05/09/13	DEFENDANTS' MOTION TO RECONSIDER AND TO MODIFY PRELIMINARY INJUNCTION TO TERMINATE EMPLOYEES MUFEEED HAMED, WALEED HAMED, AND WADDA CHARRIEZ SUBMITTED BY NIZAR DEWOOD, ESQ.
05/09/13	

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Case Information: S. Ct. Civ. No. 2013-0040

Short Title: Yusuf et al v. Hamed	Classification: Appeal By Right - CIVIL - Other Civil
Orig. Court: Super. Ct. Civ. No. 370/2012 (STX)	Status: Scheduling Order Outstanding

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